MONTANA LEGISLATIVE HISTORY

Chapter 389 1999

Bill H 69 S _____ Original bill & history ✓ C

H. Committee on Appropriations		S. Committee on Finance & Claims	
Hearing Date(s) 1-14	✓ C	Hearing Date(s) 3-2	✓ C
1-19	✓ C	3-11	✓ C
1-22	✓ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HOUSE BILL NO. 69

INTRODUCED BY MCCANN M

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING STATUTORY APPROPRIATIONS AND DEDICATED REVENUE; AMENDING SECTIONS 10-3-203, 10-4-301, 10-4-311, 15-30-195, 15-35-108, 15-36-326, 16-1-404, 16-11-308, 17-3-212, 17-7-502, 18-2-407, 20-9-104, 20-9-161, 20-9-331, 20-9-333, 20-9-501, 20-9-507, 20-26-1501, 20-26-1502, 20-26-1503, 23-7-301, 23-7-402, 39-71-502, 39-71-503, 39-71-901, 39-71-907, 39-71-2321, 44-12-206, 61-10-148, 77-1-131, 80-2-103, 85-20-402, 87-1-601, 90-4-215, 90-6-304, AND 90-6-331, MCA; REPEALING SECTION 15-36-325, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-3-203, MCA, is amended to read:

"**10-3-203. Acceptance of services, gifts, grants, and loans.** (1) Whenever the federal government or any agency or officer ~~thereof~~ of the federal government ~~or any person, firm, or corporation shall offer~~ offers to the state, or through the state to any political subdivision ~~thereof~~ of the state, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency or disaster services, the state, acting through the governor, or the political subdivision, acting through its executive officer or governing body, may accept the offer. ~~and upon~~ Upon the acceptance, the governor of the state or the executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision~~, as the case may be,~~ to receive the services, equipment, supplies, materials, or funds on behalf of the state or ~~such~~ political subdivision and subject to the terms of the offer and the rules, if any, of the agency making the offer.

(2) The funds, items, and services set forth in subsection (1) are statutorily appropriated, as provided in 17-7-502, to the governor for the purposes set forth in subsection (1)."

Section 2. Section 10-4-301, MCA, is amended to read:

"**10-4-301. Establishment of emergency telecommunications accounts.** (1) There are established

in the state special revenue fund in the state treasury:

(a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a); and

(b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b).

(2) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account. An amount equal to ~~7.48%~~ 3.74% of the money received pursuant to 10-4-201 must be deposited in the state general fund.

(3) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used for the purposes described in part 1 of this chapter.

(4) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302 and 10-4-311, is statutorily appropriated, as provided in 17-7-502, to the department ~~of administration~~.

(5) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

Section 3. Section 10-4-311, MCA, is amended to read:

"**10-4-311. Distribution of enhanced 9-1-1 account by department.** (1) The department shall make quarterly distributions of the entire enhanced 9-1-1 account ~~as follows:~~

~~(a) administrative costs incurred during the preceding calendar quarter by the department of revenue in carrying out this chapter. The amount paid may not exceed 0.5% of the account on the date of distribution or actual expenses incurred, whichever is less.~~

~~(b) administrative costs incurred during the preceding calendar quarter by the department in carrying out its duties under this chapter. The department's annual recovery of costs may not exceed 3.5% of the amount deposited in the account during the fiscal year or actual expenses incurred, whichever is less.~~

~~(c)~~ for costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

~~(i)~~(a) collection of the fee imposed by 10-4-201(1)(b); and

~~(ii)~~(b) modification of central office switching and trunking equipment necessary to provide service for an enhanced 9-1-1 system only.

(2) Payments under subsection (1)~~(c)~~ may be made only after application by the provider to the

department for costs described in subsection (1)~~(c)~~. The department shall review all applications relevant to subsection (1)~~(c)~~ for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid:

(a) for each fiscal year through the fiscal year ending June 30, 2007:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the remaining 16% of the balance of the account must be distributed evenly to the counties with 1% or less than 1% of the total population of the state; and

(b) for fiscal years beginning after June 30, 2007, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(4) An enhanced 9-1-1 jurisdiction whose enhanced 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by an enhanced 9-1-1 jurisdiction with an approved final plan for enhanced 9-1-1 service the proportional amount for each city or county served by the enhanced 9-1-1 jurisdiction. The department shall, upon request, provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(5) If the department determines that an enhanced 9-1-1 jurisdiction is not adhering to an approved plan for enhanced 9-1-1 service or is not using funds in the manner prescribed in 10-4-312, the department may, after giving notice to the jurisdiction and providing an opportunity for a representative of the jurisdiction to comment on the department's determination, suspend payment from the enhanced 9-1-1 account to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds from the enhanced 9-1-1 account until the department determines that the jurisdiction is complying with the approved plan for enhanced 9-1-1 and fund usage limitations."

Section 4. Section 15-30-195, MCA, is amended to read:

"**15-30-195. (Temporary) Excess tax refund agreement (EXTRA) -- process -- requirements --**

limitations. (1) This section may be referred to as the "Excess Tax Refund Agreement" or "EXTRA".

(2) On or before October 15, 1995, the department of administration shall determine and certify to the governor the combined total of the unreserved ending fund balances in the general fund, described in 17-2-102(1)(a)(i), and the school equalization aid account, described in 20-9-343, for the fiscal year ending June 30, 1995.

(3) If the amount of the unreserved ending fund balances described in subsection (2) exceeds $24.4 million, the amount in excess of $24.4 million, subject to the limitation provided in subsection (9), is the amount available for refund under this section.

(4) The amount determined under subsection (3) to be available for refund must be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 1994.

(5) For the purposes of this section:

(a) the term "taxpayer" does not include a fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 unless a 1994 return was filed on behalf of a decedent;

(b) a return filed using the filing status married filing jointly is considered to have been filed by a single taxpayer; and

(c) the 1994 tax year is the 12-month period beginning January 1, 1994, and ending December 31, 1994, except that for fiscal year taxpayers, the 1994 tax year is a 12-month period ending between January 1, 1994, and December 31, 1994.

(6) (a) The pro rata distribution of the amount available for refund must be calculated by the department by dividing the amount available for refund described in subsection (3) by the total individual income tax liability as determined by the department from all 1994 tax year returns that were filed by October 15, 1995.

(b) The percentage determined in subsection (6)(a), adjusted to take into account the limitations contained in subsection (8), must be used as the adjusted percentage multiplier described in subsection (6)(c) to determine the amount of each taxpayer's refund. The department may not alter or change the adjusted percentage multiplier.

(c) The department shall calculate the amount of each taxpayer's refund by multiplying the amount of tax shown on the taxpayer's return on line 40 of the 1994 Montana Individual Income Tax

Return, Form 2, or line 27 of the 1994 Montana Individual Income Tax Return, Short Form 2S, depending on the form used by the taxpayer for tax year 1994, by the adjusted percentage multiplier determined in subsection (6)(b).

(7) (a) The department shall calculate the amount of each taxpayer's refund based on the taxpayer's 1994 tax year return on file with the department by October 15, 1995. A taxpayer filing a delinquent return for the 1994 tax year after October 15, 1995, is not eligible for a refund under this section.

(b) (i) If a taxpayer files an amended return or if the department reviews a taxpayer's return and recalculates the tax due to the state, the department shall recalculate the refund due to the taxpayer under this section.

(ii) If the department's recalculation determines that the taxpayer has an increased tax liability for tax year 1994 and should receive an additional refund under this section as a result of increased 1994 liability, the department shall credit the additional amount of refund under this section to the amount of additional tax due from the taxpayer.

(iii) If the amount of the recalculated refund due to the taxpayer exceeds the amount of additional tax due from the taxpayer, the department shall pay the excess amount to the taxpayer, but only if the amount of the refund exceeds $10.

(iv) If, as the result of the taxpayer filing an amended return or of a review by the department, a taxpayer's original 1994 tax liability is decreased, any overpayment of the refund calculated by the department based on the original tax liability must be credited against any refund due to the taxpayer.

(8) A refund paid to a taxpayer pursuant to this section may not exceed $1,000. The department may not issue a refund under this section if the amount of the refund is $10 or less.

(9) Refunds may not be made under this section if the total amount available for refund as determined in subsection (3) is less than $10 million.

(10) Beginning in November 1995, the department shall calculate and issue refunds due to taxpayers under this section.

(11) (a) Notwithstanding the provisions of 15-1-211, any objection concerning the determination of the amount of refund or any other issue relating to the refunds provided in this section must be raised by the taxpayer with the department no later than 30 days after the refund is mailed to the taxpayer.

(b) A district court has no jurisdiction to entertain or consider any issue relating to the

determination or payment of a refund made under this section unless the issue was first presented to the department and the taxpayer exhausted all administrative remedies.

~~(12) The amount determined to be available for refund as provided in subsection (3), limited as provided in subsection (9), for the Excess Tax Refund Agreement and such additional funds required to do any subsequently required acts necessary as a result of the approval of this section, including the filing of amended returns or audit adjusted returns, is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of revenue.~~ (Terminates July 1, 2001--sec. 7, Ch. 29, L. 1995.)"

Section 5. Section 15-35-108, MCA, is amended to read:

"**15-35-108. Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) Beginning July 1, 1997, and ending June 30, 1999, the amount of 0.87% must be allocated to an account in the state special revenue fund for the purpose of protection of works of art in the state

capitol and for other cultural and aesthetic projects. Beginning July 1, 1999, the amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

~~(7) Beginning July 1, 1997, and ending June 30, 2007, the amount of 1.3% must be allocated to the long-range building program fund in the debt service fund type to fund the bonds issued for the purchase of the Virginia City and Nevada City property.~~

~~(8)~~(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 6. Section 15-36-326, MCA, is amended to read:

"**15-36-326. Oil and natural gas accelerated tax fund.** (1) ~~The county commissioners of a county that receives tax distributions under 15-36-325 shall establish an oil and natural gas accelerated tax fund for the deposit of the distributions.~~ The county commissioners may retain ~~the~~ money received from local government severance tax for calendar year 1995 production in ~~the~~ an oil and natural gas accelerated tax fund for any time period considered appropriate by the commissioners. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The oil and natural gas accelerated tax fund must be financially administered as a nonbudgeted fund under the provisions of Title 7, chapter 6, part 23."

Section 7. Section 16-1-404, MCA, is amended to read:

"**16-1-404. License tax on liquor -- amount -- distribution of proceeds.** (1) The department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The license tax must be charged and collected on all liquor brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup as designated by the department. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. The ~~revenue is statutorily appropriated, as provided in 17-7-502, to the~~ department ~~and must~~, in accordance with the provisions of 15-1-501, ~~be disbursed~~ shall allocate the revenue as follows:

(a) Thirty percent is allocated to the counties according to the amount of liquor purchased in each county to be distributed to the incorporated cities and towns, as provided in subsection ~~(3)~~ (4).

(b) Four and one-half percent is allocated to the counties according to the amount of liquor purchased in each county, and this money may be used for county purposes.

(c) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism.

(3) (a) In the case of purchases of liquor by a retail liquor licensee for use in the licensee's business, the department shall make regulations necessary to apportion that proportion of license tax so generated to the county where the licensed establishment is located, for use as provided in 16-1-405.

(b) The department shall pay quarterly to each county treasurer the proportion of the license tax due each county, in accordance with the provisions of 15-1-501, to be allocated to the incorporated cities and towns of the county. The payments to counties under this section are statutorily appropriated, as provided in 17-7-502.

~~(3)~~(4) The license tax proceeds allocated to the county under subsection (2) for use by cities and towns must be distributed by the county treasurer to the incorporated cities and towns within 30 days of receipt from the department. The distribution of funds to the cities and towns must be based on the proportion that the gross sale of liquor in each city or town is to the gross sale of liquor in all of the cities and towns of the county.

~~(4)~~(5) The license tax proceeds that are allocated to the department of public health and human

services for the treatment, rehabilitation, and prevention of alcoholism must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol programs. The remainder must be distributed as provided in 53-24-206."

Section 8. Section 16-11-308, MCA, is amended to read:

"**16-11-308. Tobacco education fee.** (1) Failure to obtain a license, as required by 16-11-303, or to post signs, as provided in 16-11-304, is punishable by a civil penalty of $100. The department may collect the penalty in the manner provided for the collection of other debts.

(2) A person who violates 16-11-305(1) or 16-11-307 at any one location within a 3-year period shall be punished as follows:

(a) A first through third offense is punishable by a verbal notification of violation.

(b) A fourth offense is punishable by a written notice of violation to be sent by the department of public health and human services to the owner of the establishment.

(c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco education fee of $500. The employee or other person who sold the tobacco product, the establishment manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the tobacco education material.

(d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months.

(e) A seventh and subsequent offense is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 1 year.

(3) After 2 years from the first violation, if a person has not received notice of any further violations, a second violation is considered a first violation for the purposes of subsection (2).

(4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco education fees are paid in full.

(5) Tobacco education fees must be assessed and collected by the department of public health and human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made by the department of public health and human services within 30 days of the alleged violation by certified letter addressed to the establishment owner or manager. The notice of assessment against the owner of the establishment must provide an opportunity for a hearing. The hearing may be conducted

using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the owner or manager shall notify the department of public health and human services that the owner or manager objects to the assessment and request a hearing pursuant to this subsection.

(6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of 16-11-305(1) or 16-11-307 is punishable by an assessment of a tobacco education fee of $25 against the employee who sold the tobacco product if the employee is not the owner of the establishment. The tobacco education fee must be assessed and collected by the department of public health and human services. Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made by the department of public health and human services by certified letter addressed to the employee. The notice of assessment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee shall notify the department of public health and human services that the employee objects to the assessment and requests a hearing pursuant to this subsection.

(7) The tobacco education material referred to in this section must be provided by the department of public health and human services in the form of written and video self-teaching materials. The education materials may be used only for the purposes provided in this section. Upon completion of the self-teaching materials, the establishment owner or manager shall execute a written statement on a form provided by the department of public health and human services verifying that the employee, owner, or manager, as appropriate, has read and viewed the self-teaching material and shall return the statement and the self-teaching video to the department of public health and human services.

(8) Upon the sixth and subsequent violation of this section, the department of public health and human services shall notify the department of revenue in writing to initiate suspension of the licenses required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and of the referral of the licensee's record of violations to the department of revenue for suspension of the licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon review of the record of violations, the department of revenue declines to initiate suspension proceedings, the violation may not be charged against the licensee for the purposes of this section.

(9) Fees assessed pursuant to this section must be deposited ~~in an account~~ in the state ~~special~~ revenue general fund. ~~One-half of the money in the account is statutorily appropriated, as provided in 17-7-502, to the department of public health and human services to defray the costs of the tobacco education program. One-half of the money in the account is statutorily appropriated, as provided in 17-7-502, to the department of revenue to defray the department's costs of implementing its duties pursuant to 16-11-144 and this section.~~"

Section 9. Section 17-3-212, MCA, is amended to read:

"**17-3-212. Apportionment of forest reserve funds among counties.** (1) The forest reserve funds and earned interest are statutorily appropriated, as provided in 17-7-502, from the federal special revenue fund to the state auditor~~;~~. ~~who~~ The state auditor shall apportion ~~said~~ all forest reserve funds and earned interest for allocation ~~between the several counties as follows: all funds received from each forest reserve shall be apportioned between~~ among the counties in which ~~such~~ the forest reserve is situated in proportion to the acreage of ~~such~~ the forest reserve in each county~~; and~~.

(2) ~~the~~ The state treasurer shall pay the ~~several~~ apportioned amounts ~~so apportioned~~ plus interest ~~thereon~~, as provided in 17-3-211, to the respective counties."

Section 10. Section 17-7-502, MCA, is amended to read:

"**17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; ~~15-30-195;~~ 15-31-702; 15-36-324; ~~15-36-325;~~ 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; ~~16-11-308;~~ 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319;

19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; ~~20-8-111;~~ 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; ~~23-7-301;~~ ~~23-7-402;~~ 37-43-204; 37-51-501; 39-71-503; ~~39-71-907;~~ ~~39-71-2321;~~ 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; ~~77-1-131;~~ 77-1-505; ~~80-2-103;~~ 80-2-222; 80-4-416; 81-5-111; 82-11-161; ~~85-20-402;~~ 87-1-513; ~~90-3-301;~~ ~~90-4-215;~~ ~~90-6-331;~~ and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)

17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-23-706; ~~15-30-195;~~ 15-31-702; 15-36-324; ~~15-36-325;~~ 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; ~~16-11-308;~~ 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;

23-5-631; ~~23-7-301; 23-7-402;~~ 32-1-537; 37-43-204; 37-51-501; 39-71-503; ~~39-71-907; 39-71-2321;~~ 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; ~~80-2-103;~~ 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; ~~85-20-402;~~ 87-1-513; ~~90-4-215; 90-6-331;~~ 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

Section 11. Section 18-2-407, MCA, is amended to read:

"**18-2-407. Forfeiture for failure to pay standard prevailing wage.** (1) Any contractor, subcontractor, or employer who pays workers or employees at less than the standard prevailing wage as established under the public works contract shall forfeit to the department a penalty at a rate of up to 20% of the delinquent wages plus fringe benefits, attorney fees, audit fees, and court costs. Money collected by the department under this section must be deposited in the ~~employment security account, as provided in 39-51-409, and must be used for enforcement~~ general fund. A contractor, subcontractor, or employer shall also forfeit to the employee the amount of wages owed plus $25 a day for each day that the employee was underpaid.

(2) Whenever it appears to the contracting agency or to the Montana commissioner of labor and industry that there is insufficient money due to the contractor or the employer under the terms of the contract to cover penalties, the Montana commissioner of labor and industry may, within 90 days after the filing of notice of completion of the project and its acceptance by the contracting agency, maintain an action in district court to recover all penalties and forfeitures due. This part does not prevent the individual worker who has been underpaid or the commissioner of labor and industry on behalf of all the

underpaid workers from maintaining an action for recovery of the wages due under the contract as provided in Title 39, chapter 3, part 2, except that appeal of the ~~hearing~~ hearings officer's decision is made directly to district court rather than to the board of personnel appeals."

Section 12. Section 20-9-104, MCA, is amended to read:

"**20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves, as provided in subsection (5), may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b).

(5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount:

(a) (i) received in settlement of tax payments protested in a prior school fiscal year;

(ii) received in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) received in delinquent taxes from a prior school fiscal year; ~~and~~

~~(iv) received as a local government severance tax payment for calendar year 1995 production as provided in 15-36-325;~~ or

(b) a district was entitled to as a general bonus payment prior to July 1, 1994.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less."

Section 13. Section 20-9-161, MCA, is amended to read:

"20-9-161. **Definition of budget amendment for budgeting purposes.** As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents; or

(c) delinquent taxes from a prior school fiscal year; ~~or~~

~~(d) local government severance tax payments for calendar year 1995 production as provided in 15-36-325(7);~~ and

~~(c)~~(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c)~~, or (5)(d)~~ for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

Section 14. Section 20-9-331, MCA, is amended to read:

"**20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program.** (1) The county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation,

including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) oil and natural gas production taxes;

~~(h) anticipated local government severance tax payments for calendar year 1995 production as provided in 15-36-325;~~ and

~~(i)~~(h) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204."

Section 15. Section 20-9-333, MCA, is amended to read:

"**20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program.** (1) The county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) oil and natural gas production taxes;

~~(e) anticipated local government severance tax payments for calendar year 1995 production as provided in 15-36-325;~~ and

~~(f)~~(e) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204."

Section 16. Section 20-9-501, MCA, is amended to read:

"**20-9-501. Retirement fund.** (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement;

by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504, 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 67-3-204;

(ii) oil and natural gas production taxes;

~~(iii) anticipated local government severance tax payments for calendar year 1995 production as provided in 15-36-325;~~

~~(iv)~~(iii) coal gross proceeds taxes under 15-23-703;

~~(v)~~(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

~~(vi)~~(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county

superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

Section 17. Section 20-9-507, MCA, is amended to read:

"**20-9-507. Miscellaneous programs fund.** (1) The trustees of a district receiving money from local, state, federal, or other sources provided in 20-5-324 other than money under the provisions of impact aid, as provided in 20 U.S.C. 7701, et seq., or federal money designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district, ~~a payment received as a local government severance tax payment for calendar year 1995 production as provided in 15-36-325,~~ indirect cost recoveries, or a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. ~~When the money is a reimbursement or a local government severance tax payment, the money may be expended at the discretion of the trustees for school purposes.~~ When the money is a grant, the money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall maintain a separate accounting for each local, state, or federal grant project and the indirect cost recoveries.

(2) The financial administration of the miscellaneous programs fund must be in accordance with the financial administration provisions of this title for a nonbudgeted fund."

Section 18. Section 20-26-1501, MCA, is amended to read:

"**20-26-1501. Rural physician incentive ~~trust fund~~ state special revenue account.** There is a rural physician incentive ~~expendable trust fund~~ state special revenue account in the state treasury. Money is payable into the ~~fund~~ account as provided in 20-26-1502. Income and earnings on the ~~fund~~ account must be redeposited in the ~~fund~~ account. The ~~fund~~ account must be administered by the board of regents ~~of higher education~~ as provided in this part."

Section 19. Section 20-26-1502, MCA, is amended to read:

"**20-26-1502. Fee assessments -- deposits.** The board of regents ~~of higher education~~ may assess a fee to students preparing to be physicians in the fields of medicine or osteopathic medicine who are supported by the state pursuant to an interstate compact for a professional education program in those fields, as those fields are defined by the compact. The fee may not exceed an amount equal to 8% of the annual individual medicine support fee paid by the state pursuant to 20-25-804. The fee must be assessed by the board of regents and deposited in the rural physician incentive ~~trust fund~~ state special revenue account established in 20-26-1501."

Section 20. Section 20-26-1503, MCA, is amended to read:

"**20-26-1503. Use of rural physician incentive ~~trust fund~~ state special revenue account.** (1) The rural physician incentive ~~trust fund~~ state special revenue account is statutorily appropriated, as provided in 17-7-502, to the board of regents ~~of higher education~~ to be used to pay:

(a) the educational debts of rural physicians who practice in medically underserved areas of the state that demonstrate a need for assistance in physician recruitment; and

(b) the expenses of administering the rural physician incentive program. The expenses of administering the program may not exceed 10% of the annual fees assessed pursuant to 20-26-1502.

(2) The board of regents shall establish procedures for determining the areas of the state that qualify for assistance in physician recruitment. An eligible area must demonstrate that a physician shortage exists or that the area has been unsuccessful in recruiting physicians by other mechanisms.

(3) A physician from an area determined to be eligible under subsection (2) may apply to the board of regents for payment of an educational debt directly related to a professional school, as provided in subsection (4). Physicians who have paid the fee authorized in 20-26-1502 must be given a preference over other applicants. To receive the educational debt payments, the physician shall sign an annual contract with the board of regents. The contract must provide that the physician is liable for the payments if the physician ceases to practice in the eligible area during the contract period.

(4) The maximum amount of educational debt payment that a rural physician may receive is $45,000 over a 5-year period or a proportionally reduced amount for a shorter period.

(5) The amount contractually committed in a year may not exceed the annual amount deposited in the rural physician incentive ~~trust fund~~ state special revenue account."

Section 21. Section 23-7-301, MCA, is amended to read:

"**23-7-301. Ticket or chance sales agents -- licenses.** (1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

(2) The commission shall by rule determine the places at which state lottery game tickets or chances may be sold.

(3) (a) Before issuing a license, the director shall consider:

(i) the financial responsibility and security of the applicant and the applicant's business or activity;

(ii) the accessibility of the applicant's place of business or activity to the public; and

(iii) the sufficiency of existing licenses to serve the public convenience and the volume of the expected sales.

(b) A person under 18 years of age may not sell lottery tickets or chances.

(c) A license as an agent to sell lottery tickets or chances may not be issued to any person to engage in business exclusively as a lottery ticket or chance sales agent.

(4) The director may issue temporary licenses upon conditions that the director considers necessary.

(5) License applicants shall pay a $50 fee to cover the cost of investigating and processing the application.

(6) The director may require a bond from any licensed agent in an amount provided in the commission's rules and may purchase a blanket bond covering the activities of licensed agents.

(7) A licensed agent shall display the license or a copy of the license conspicuously in accordance with the commission's rules.

(8) A license is not assignable or transferable.

(9) An employee of a ticket or chance sales agent may not be required to sell lottery game tickets or chances if the sale is against the employee's religious or moral beliefs.

(10) Sales agents are entitled to a commission of no more than 10% of the face value of tickets and chances that they purchase from the lottery and do not return. However, to further the sale of lottery products, the lottery commission may adopt rules providing additional commissions to sales agents based on incremental sales. Commissions may not come from that part of all gross revenue that is net revenue and is paid to the general fund. ~~The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery.~~

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing the agent's sales and provide it for inspection upon request of the commission, the director, the department of commerce, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic funds transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this chapter or a commission rule. Prior to suspension or revocation, the licensee must be given notice and an opportunity for a hearing."

Section 22. Section 23-7-402, MCA, is amended to read:

"**23-7-402. (Temporary) Disposition of revenue.** (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. ~~The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.~~

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Except as provided in subsection (5), net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning.

(5) For the purposes of funding a study of the socioeconomic impacts of gambling, $100,000 of net revenue may be appropriated from the enterprise fund established by 23-7-401. (Terminates June 30, 1999--sec. 8, Ch. 494, L. 1997.)

23-7-402. (Effective July 1, 1999) Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. ~~The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.~~

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning."

Section 23. Section 39-71-502, MCA, is amended to read:

"**39-71-502. Creation and purpose of uninsured employers' fund.** (1) There is created an uninsured employers' fund in the state special revenue fund type. The purpose of the fund is to pay:

(a) to an injured employee of an uninsured employer the same benefits the employee would have received if the employer had been properly enrolled under compensation plan No. 1, 2, or 3, except as provided in 39-71-503(2); and

(b) the costs of investigating and prosecuting workers' compensation fraud under 2-15-2015.

(2) The department may refer to the workers' compensation fraud office established in 2-15-2015 cases involving:

(a) false or fraudulent claims for benefits; or

(b) criminal violations of 45-7-501."

Section 24. Section 39-71-503, MCA, is amended to read:

"**39-71-503. Administration of fund -- appropriation.** (1) The department shall administer the uninsured employers' fund and shall pay from it all expenses of administering the fund, all loss adjustment expenses for claims of injured employees of uninsured employers, and all proper benefits to injured employees of underinsured and uninsured employers.

(2) Surpluses and reserves may not be kept for the fund. The department shall make payments that it considers appropriate as funds become available from time to time. The payment of weekly disability benefits takes precedence over the payment of medical benefits. Lump-sum payments of future projected benefits, including impairment awards, may not be made from the fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(3) The amounts necessary for the payment of benefits from this fund are statutorily appropriated, as provided in 17-7-502, from this fund."

Section 25. Section 39-71-901, MCA, is amended to read:

"**39-71-901. Definitions.** As used in this part, the following definitions apply:

(1) "Certificate" means documentation issued by the department to an individual who is a person with a disability.

(2) "Fund" means the subsequent injury fund in the proprietary fund category.

(3) "Person with a disability" means a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed, considering such factors as the person's age, education, training, experience, and employment rejection."

Section 26. Section 39-71-907, MCA, is amended to read:

"**39-71-907. Certified person with a disability to be compensated for injury as provided by chapter -- insurer liability for compensation limited ~~-- appropriation~~.** ~~(1)~~ A person certified as having a physical or mental disability that constitutes or results in a substantial impediment to employment who receives an injury, as defined in 39-71-119, that results in death or disability must be paid compensation in the manner and to the extent provided in this chapter or, in case of death resulting from the injury, the compensation must be paid to the person's beneficiaries or dependents. The liability of the insurer for

payment of medical and burial benefits as provided in this chapter is limited to those benefits arising from services rendered during the period of 104 weeks after the date of injury. The liability of the insurer for payment of benefits as provided in this chapter is limited to 104 weeks of compensation benefits actually paid. Thereafter, all compensation and the cost of all medical care and burial are the liability of the fund.

~~(2) The amounts necessary for the payment of benefits from this fund are statutorily appropriated, as provided in 17-7-502, from this fund.~~"

Section 27. Section 39-71-2321, MCA, is amended to read:

"**39-71-2321. What to be deposited in state fund.** (1) All premiums, penalties, recoveries by subrogation, interest earned upon money belonging to the state fund, ~~and~~ securities acquired by or through use of money, taxes collected under 39-71-2503 and 39-71-2505, and the interest and penalties on the taxes in accordance with 15-1-501 must be deposited in the state fund. They must be separated into two accounts based upon whether they relate to claims for injuries resulting from accidents that occurred before July 1, 1990, or claims for injuries resulting from accidents that occur on or after that date.

(2) All funds deposited in the state fund ~~are statutorily appropriated as provided in 17-7-502~~ may be spent as provided in 17-8-101(2)(b)."

Section 28. Section 44-12-206, MCA, is amended to read:

"**44-12-206. Disposition of proceeds of sale.** (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property;

(b) the remainder, if any, to the county treasurer of the county in which the property was seized, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(c) through (1)(e);

(c) if the property was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and (1)(e);

(d) if the property was seized by an employee of the state, the remainder, if any, ~~to the account established~~ is allocated as provided in subsection (3), except as provided in subsection (1)(e); and

(e) if the property was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation, as determined by the attorney general.

(2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for drug laws enforcement and education concerning drugs.

(3) (a) ~~Net~~ Each year, the first $125,000 of net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice. The department may expend the money in the account only for purposes of enforcement of drug laws. An amount up to $125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. Any expenditure in excess of $125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.

(b) Each year, net proceeds in excess of $125,000 that are received by the state under subsections (1)(d) and (1)(e) must be deposited equally between the state special revenue account and the general fund."

Section 29. Section 61-10-148, MCA, is amended to read:

"**61-10-148. Disposition of fines and forfeited bonds.** (1) Except as provided in 61-12-701 and subsection (2) of this section, one-half of all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be remitted monthly by the county treasurer to the state treasurer for deposit in the ~~highway nonrestricted account in the state special revenue~~ state general fund. The remaining half, less the deductions required by law, must be deposited in the county road fund. This subsection does not apply to fines and forfeited bonds paid to justices' courts.

(2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under the provisions of 60-2-128 and 60-2-203, all money collected as fines and forfeited bonds must be distributed to the county treasurer for deposit in the county road fund."

Section 30. Section 77-1-131, MCA, is amended to read:

"**77-1-131. (Temporary) State lands historic right-of-way account ~~—statutory appropriation~~.** There is a state lands historic right-of-way account in the state special revenue fund. The application fee collected by the department pursuant to 77-1-130(1)(a) must be deposited in the account. Money in the account ~~is statutorily appropriated to the department, as provided in 17-7-502,~~ must be used for the expenses of the department in administering 77-1-130. Money in the account on the termination date of the account must be deposited in the general fund. (Terminates October 1, 2003--sec. 5, Ch. 461, L. 1997.)"

Section 31. Section 80-2-103, MCA, is amended to read:

"**80-2-103. Administration of trust assets.** Funds and the proceeds of the trust assets ~~which~~ that are not authorized to be administered by the secretary of agriculture under 80-2-102 must be received by the department and paid by it to the state treasurer for deposit in the expendable trust fund ~~and are statutorily appropriated, as provided in 17-7-502~~, to be used for expenditure or obligation by the department for the purposes of 80-2-102 or for the rural rehabilitation purposes permissible under the charter of the now dissolved Montana rural rehabilitation corporation as may be agreed upon between the department and the secretary of agriculture, subject to Public Law 499. Expenditures for actual and necessary expenses required for the efficient administration of this part must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose."

Section 32. Section 85-20-402, MCA, is amended to read:

"**85-20-402. ~~Statutory appropriation of~~ Accounting for federal funds.** (1) There must be created those accounts that are necessary within the federal special revenue fund established under 17-2-102 for the purposes of this part.

(2) Federal funds deposited in the accounts and interest and earnings on the accounts are ~~statutorily appropriated, as provided in 17-7-502, and~~ must be used for the following purposes or to reimburse the state for expenditures incurred for the following purposes:

(a) establishment, administration, and enforcement of the Yellowstone controlled ground water area;

(b) inventory, sampling, reporting, and database management;

(c) provision for administrative costs and the cost of any study or any other necessary activity by the technical oversight committee; and

(d) any other necessary activity pursuant to this part."

Section 33. Section 87-1-601, MCA, is amended to read:

"**87-1-601. Use of fish and game money.** (1) (a) Except as provided in subsection (7), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations, or received by the department from any other state source must be turned over to the state treasurer and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) The money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court

for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) Money received by the department from the sale of surplus real property; from exploration or development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other compensation based on production; and from leases of interests in department real property not contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust fund of the state treasury. The interest derived from the fund, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department, and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited ~~as follows:~~

~~(a) 50% in an account for use by the department for the enforcement of 77-1-801, 77-1-806, and rules adopted under 77-1-804; and~~

~~(b) 50% in the state lands recreational use account established by 77-1-8[illegible] for use by the department of natural resources and conservation in the management of state lands~~ in the state general fund.

(8) ~~After July 1, 1995, the~~ The state treasurer shall deposit in the state general fund one-half of the money received from the fines pursuant to 87-1-102."

Section 34. Section 90-4-215, MCA, is amended to read:

"**90-4-215. Account established -- use.** (1) There is created an energy conservation and energy assistance account within the federal special revenue fund established in 17-2-102.

(2) The amounts deposited in the account and interest and earnings on the account ~~are statutorily appropriated, as provided in 17-7-502, to~~ may be used by the department of public health and human

services to fund its low-income energy assistance and home weatherization programs created in 90-4-201. However, the department may use the principal of the account only if the federal grants for either of those programs ~~is~~ are reduced below the federal fiscal year 1987 level. The department may not use the principal to increase expenditures to either program above the level of the federal grant for that program for federal fiscal year 1987."

Section 35. Section 90-6-304, MCA, is amended to read:

"**90-6-304. Accounts established.** (1) There is within the state agency fund type a hard-rock mining impact account. Money is payable into this account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account upon order of the board.

(2) There is within the state special revenue fund a hard-rock mining impact trust account. Within this trust account, there is established a reserve account not to exceed $100,000.

(a) Money within the hard-rock mining impact trust account may be used:

(i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

(ii) to establish and maintain the reserve account; and

(iii) for distribution to the counties of origin, as provided by 90-6-331~~(1)~~ and this section.

(b) Money within the hard-rock mining impact trust reserve account may be used for the administrative and operating expenses of the board if:

(i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the administrative and operating expenses of the board; or

(ii) the use of the reserve account revenue is necessary to allow the board to meet its quasi-judicial responsibilities under 90-6-307, 90-6-311, or 90-6-403(3).

(3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117. After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then establishing and maintaining the reserve account in the amount of $100,000, as provided in subsection (2) of this section, the remaining money must be segregated within the account by county of origin. The state treasurer shall draw warrants from this account upon order of the board."

Section 36. Section 90-6-331, MCA, is amended to read:

"**90-6-331. Fund transfer.** ~~(1) On July 1, 1990, and prior~~ Prior to each October 1 ~~thereafter~~, all money segregated by county in the hard-rock mining impact trust account following allocation to the hard-rock mining impact trust reserve account established in 90-6-304(2) as of September 1 immediately preceding must be transferred to the county for which the funds have been held in deposit. The funds so transferred must be deposited in the county hard-rock mine trust reserve account established in 7-6-2225.

~~(2) The transfer of funds required by this section is a statutory appropriation pursuant to 17-7-502.~~"

NEW SECTION. **Section 37. Repealer.** Section 15-36-325, MCA, is repealed.

NEW SECTION. **Section 38. Effective date.** [This act] is effective July 1, 1999.

- END -

FISCAL NOTE

Bill #: HB0069 **Title:** Revise statutory appropriations and revenue dedications

Primary Sponsor: Matt McCann **Status:** As introduced

Sponsor signature Date

Dave Lewis 1-8-99

Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:		
General Fund	$0	$0
State Special Revenue	136,000	141,000
Revenue:		
General Fund	($136,000)	($141,000)
State Special Revenue	136,000	141,000
Net Impact on General Fund Balance:	**($136,000)**	**($141,000)**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Section 28 of the bill deals with the fiscal disposition of drug forfeitures. Currently, receipts up to $125,000 per year can be statutorily expended by the Department of Justice, and subsequent receipts expended by approved budget amendment. HB69 splits receipts over $125,000 between the original state special revenue account and the general fund. Since drug forfeitures are very unpredictable, and annual receipts since inception of the account (1979) have not exceeded $83,000, no fiscal impact is included above.
2. Fiscal year 2000 and 2001 revenue estimates, generally based upon previous year's receipts, will produce accurate results.

HB 69

3. Carryover cash balances that exist in a state special revenue accounts that will be transferred to the general fund with the passage of HB 69 are not considered in the above amounts. As a whole, they are considered immaterial.
4. All monies in the 9-1-1 accounts are to be disbursed for 9-1-1 functions quarterly. The additional 9-1-1 funds created by this bill will be disbursed as a "transfer" expenditure.

FISCAL IMPACT:

	FY2000 Difference	FY2001 Difference
Department of Administration (9-1-1)		
Expenditures:		
Transfers	$148,000	$153,000
Funding:		
State Special Revenue (02)	$148,000	$153,000
Revenues:		
General Fund (01)	($148,000)	($153,000)
State Special Revenue (02)	148,000	153,000
Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	($148,000)	($153,000)
State Special Revenue (02)	0	0
Department of Fish, Wildlife and Parks		
Revenues:		
General Fund (01)	$5,000	$5,000
State Special Revenue (02)	(5,000)	(5,000)
Department of Natural Resources and Development		
Revenues:		
General Fund (01)	$5,000	$5,000
State Special Revenue (02)	(5,000)	(5,000)
Department of Labor and Industry		
Revenues:		
General Fund (01)	$2,000	$2,000
State Special Revenue (02)	(2,000)	(2,000)

TECHNICAL NOTES:

1. Section 6 deals with the distribution of oil and natural gas accelerated tax for the 1995 calendar year production. Although all funds are supposed to be distributed by June 30, 1999, the Department of Revenue estimates that funds, though small, will continue to be received for a number of years thereafter. With the elimination of the statutory appropriation authority, the Department will be without a vehicle to distribute the funds received.

3/08	Returned from Enrolling		
3/09	Signed by Speaker		
3/10	Signed by President		
3/10	Transmitted to Governor		
3/15	Signed by Governor		
3/16	Chapter Number Assigned		
	Chapter Number 53		
	Effective Date: 10/01/1999 - All Sections		

HB 67 Introduced by Pavlovich *LC0518 Drafter: Heffelfinger*

Provide an Appropriation for a Full-time Employee at the State Veterans' Cemetery at Fort Harrison;...

12/07	Introduced		
12/21	Referred to Appropriations		
1/04	1st Reading		
1/26	Tabled in Committee		
3/26	Missed Deadline for Appropriation Bill Transmittal		

HB 68 Introduced by Cobb *LC0632 Drafter: Kurtz*

Increase the Cigarette Tax;...

11/19	Fiscal Note Needed		
12/07	Introduced		
12/21	Referred to Taxation		
1/04	1st Reading		
1/04	Fiscal Note Requested		
1/12	Fiscal Note Received		
1/15	Fiscal Note Printed		
1/25	Hearing		
3/03	Tabled in Committee		
3/31	Missed Deadline for Revenue Bill Transmittal		

HB 69 Introduced by McCann *LC0280 Drafter: Petesch*

Revise the Laws Governing Statutory Appropriations and Dedicated Revenue;...

By Request of Legislative Finance Committee

12/07	Introduced		
12/21	Referred to Appropriations		
1/04	1st Reading		
1/04	Fiscal Note Requested		
1/08	Fiscal Note Received		
1/09	Fiscal Note Signed		
1/11	Fiscal Note Printed		
1/14	Hearing		
1/20	Rereferred to Appropriations		
1/22	Committee Executive Action--Bill Passed as Amended	16	0
1/23	Committee Report--Bill Passed as Amended		
1/28	2nd Reading Passed	100	0
1/29	3rd Reading Passed	96	1
	Transmitted to Senate		
1/30	Referred to Finance and Claims		
3/02	Hearing		

3/02	Revised Fiscal Note Requested		
3/08	Revised Fiscal Note Received		
3/09	Revised Fiscal Note Signed		
3/10	Revised Fiscal Note Printed		
3/11	Committee Executive Action--Bill Concurred as Amended	17	0
3/11	Committee Report--Bill Concurred as Amended		
3/13	2nd Reading Concurred	43	0
3/15	3rd Reading Concurred	45	4
	Returned to House with Amendments		
4/10	2nd Reading Senate Amendments Concurred	99	0
4/12	3rd Reading Passed as Amended by Senate	96	2
4/12	Sent to Enrolling		
4/14	Returned from Enrolling		
4/14	Signed by Speaker		
4/15	Signed by President		
4/16	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 389		
	Effective Date: 7/01/1999 - All Sections		

HB 70 Introduced by Hurdle *LC0209 Drafter: Fox*

Provide That Adult Foster Care Facilities May Be Licensed to Provide Residential Services to Certain Persons, Including Those in the State-funded Developmental Disabilities Program;...

By Request of Department of Public Health and Human Services

12/07	Introduced		
12/21	Referred to Human Services		
1/04	1st Reading		
1/08	Hearing		
1/19	Committee Executive Action--Bill Passed as Amended	17	0
1/19	Committee Report--Bill Passed as Amended		
1/22	2nd Reading Passed	98	0
1/23	3rd Reading Passed	97	1
	Transmitted to Senate		
1/27	Referred to Public Health, Welfare and Safety		
3/05	Hearing		
3/06	Committee Executive Action--Bill Concurred	8	0
3/06	Committee Report--Bill Concurred		
3/08	2nd Reading Concurred	50	0
3/09	3rd Reading Concurred	49	1
	Returned to House		
3/09	Sent to Enrolling		
3/10	Returned from Enrolling		
3/13	Signed by Speaker		
3/15	Signed by President		
3/15	Transmitted to Governor		
3/23	Signed by Governor		
3/24	Chapter Number Assigned		
	Chapter Number 133		
	Effective Date: 7/01/1999 - All Sections		

HB 67 SPONSOR: Pavlovich, Bob SHORT TITLE: Appropriate money to fund support of veterans cemetery
REFERRED ON: 12/21/1998
TABLED ON: 01/26/1999
FINAL DISPOSITION 03/26/1999 (H) Missed Deadline for Appropriation Bill Transmitt

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HB 69 SPONSOR: McCann, Matt SHORT TITLE: Revise the laws governing statutory appropriations and dedicated revenue
BY REQUEST OF: Legislative Finance Committee
REFERRED ON: 12/21/1998 HEARD ON: 01/14/1999 (H) Discussed in Committee ON: 01/19/1999
REFERRED ON: 01/20/1999
EXECUTIVE ACTION: 01/22/1999 Bill Passed as Amended -- VOTE: 16 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 72 SPONSOR: Mercer, John SHORT TITLE: Guaranteed annual benefit adjustment for teachers' retirement system
BY REQUEST OF: Teachers' Retirement Board
REFERRED ON: 02/23/1999 HEARD ON: 03/15/1999
EXECUTIVE ACTION: 03/18/1999 Bill Passed -- VOTE: 14 - 3
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 75 SPONSOR: Ahner, Chris SHORT TITLE: Combine disaster and fire emergency statutory appropriations
BY REQUEST OF: Department Of Military Affairs
REFERRED ON: 12/21/1998 HEARD ON: 01/12/1999
EXECUTIVE ACTION: 01/19/1999 Bill Passed -- VOTE: 12 - 6
FINAL DISPOSITION 03/16/1999 Chapter Number Assigned

HB 79 SPONSOR: Brainard, Matt SHORT TITLE: Establish a defined contribution plan within public employees' retirement system
BY REQUEST OF: Committee On Public Employee Retirement Systems
REFERRED ON: 01/30/1999 HEARD ON: 02/11/1999
EXECUTIVE ACTION: 03/09/1999 Bill Passed as Amended -- VOTE: 11 - 7
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN TOM ZOOK**, on January 14, 1999 at 2:00 P.M., in Room 312 - 2 Capitol.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Joe Quilici, Vice Chairman (D)
Rep. Steve Vick, Vice Chairman (R)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. Peggy Bergsagel (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. John Cobb (R)
Rep. Dick Haines (R)
Rep. Royal Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. Red Menahan (D)
Rep. Ray Peck (D)
Rep. Lila Taylor (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: Rep. Stan Fisher (R)

Members Absent: None.

Staff Present: Joanne Gunderson, Committee Secretary
Taryn Purdy, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. These minutes were recorded on a Sony BI-85 and notations are measured in inches rather than minutes.

Committee Business Summary:
Hearing(s) Posted: HB 25, 69, 185, 1/11/1999

HEARING ON HB 25

Opening Statement by Sponsor:
Rep. Robert J. "Bob" Pavlovich, HD 37 stated the purpose of HB 25 .
{Tape : 1; Side : A; Approx. Time Counter : 2 - 16}

Proponents' Testimony:
Larry Longfellow, Montana VFW
{Tape : 1; Side : A; Approx. Time Counter : 16 - 21}

John E. Sloan, DAV Departments of Montana
{Tape : 1; Side : A; Approx. Time Counter : 21 - 28}

Hal Manson, American Legion
{Tape : 1; Side : A; Approx. Time Counter : 28 - 38}

Roger Hagen, Associations of the National Guard
{Tape : 1; Side : A; Approx. Time Counter : 38 - 58}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Time Counter : 58 - 101}

Closing by Sponsor:
Rep. Pavlovich closed. EXHIBIT(1)
{Tape : 1; Side : A; Approx. Time Counter : 101 - 125}

HEARING ON HB 69

Opening Statement by Sponsor:
Rep. Matt McCann, HD 92, stated the purpose of the bill.
{Tape : 1; Side : A; Approx. Time Counter : 125 - 177}

Informational Testimony:
Rep. Zook further explained the reason for the bill. There was discussion regarding Section 6 and technical information given on the fiscal note.
{Tape : 1; Side : A; Approx. Time Counter : 177 - 213}

Rep. Vick made comments on the bill to the committee.
{Tape : 1; Side : A; Approx. Time Counter : 213 - 233}

Rep. Peck referred to page 18, line 7 and page 19 lines 6 and page 24. Discussion by the committee followed.
{Tape : 1; Side : A; Approx. Time Counter : 233 - 304}

Rep. Quilici gave further information.
{Tape : 1; Side : A; Approx. Time Counter : 304 - 329}

Roger Lloyd, Legislative Fiscal Division
{Tape : 1; Side : A; Approx. Time Counter : 329 - 344; Comments : informational testimony regarding section 9}

Proponents' Testimony:
Jane Jelinski, Montana Association of Counties (MACO)
{Tape : 1; Side : A; Approx. Time Counter : 344 - 377}

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:
Rep. McCann closed.
{Tape : 1; Side : A; Approx. Time Counter : 377 - 455}

HEARING ON HB 185

Opening Statement by Sponsor:
Rep. William "Red" Menahan, HD 57, introduced HB 185 and proposed an amendment. EXHIBIT(2)
{Tape : 1; Side : B; Approx. Time Counter : 0 - 29}

Proponents' Testimony:
Capt. Mike O'Hara, Missoula Sheriff's Office EXHIBIT(3)
{Tape : 1; Side : B; Approx. Time Counter : 29 - 121}

Jane Jelinsky, MACO
{Tape : 1; Side : B; Approx. Time Counter : 121 - 126}

Ray Barnicoat, MACO EXHIBIT(4)
{Tape : 1; Side : B; Approx. Time Counter : 126 - 154; Comments: Exhibit 4 consists of 12 pages.}

Kathy McGowan, Montana Peace Officers Association
{Tape : 1; Side : B; Approx. Time Counter : 154 - 164}

EXECUTIVE ACTION ON HB 25

Motion: REP. QUILICI moved that HB 25 DO PASS.
{Tape : 1; Side : A; Approx. Time Counter : 7 - 13}

Discussion:
{Tape : 1; Side : A; Approx. Time Counter : 13 - 243; Comments : re: coordination with SB 11.} EXHIBIT(1)

Vote: Motion failed 7-11 with Reps. Quilici, Zook, Buzzas, Haines, Menahan, Peck, and Tropila voting aye.
{Tape : 1; Side : A; Approx. Time Counter : 243 - 275; Comments : Vote taken by roll call, attached to minutes.}

Motion/Vote: REP. E. BERGSAGEL moved that HB 25 BE TABLED. Motion carried unanimously.
{Tape : 1; Side : A; Approx. Time Counter : 275 - 290; Comments : Rep.E.Bergsagel said he'd be willing to reconsider HB 25 if SB 11 fails.}

EXECUTIVE ACTION ON HB 64

Motion: REP. E. BERGSAGEL moved that HB 64 DO PASS.

Motion/Vote: REP. PECK moved that HB 64 BE AMENDED per Exhibit 2. Motion carried unanimously. EXHIBIT(2)
{Tape : 1; Side : A; Approx. Time Counter : 290 - 314}

Motion/Vote: REP. E. BERGSAGEL moved that HB 64 DO PASS AS AMENDED. Motion carried unanimously.
{Tape : 1; Side : A; Approx. Time Counter : 314 - 324}

EXECUTIVE ACTION ON HB 69

Motion: REP. E. BERGSAGEL moved that HB 69 DO PASS.

Discussion:
It was the committee's decision to delay action on HB 69 and Rep. E. Bergsagel withdrew the motion.
{Tape : 1; Side : A; Approx. Time Counter : 324 - 344}

EXECUTIVE ACTION ON SB 17

Motion/Vote: REP. E. BERGSAGEL moved that SB 17 BE CONCURRED IN. Motion carried unanimously.
{Tape : 1; Side : A; Approx. Time Counter : 344 - 368; Comments : Prior to vote, Rep. Kasten and Taryn Purdy explained the bill. Rep. Peck agreed to carry SB 17.}

EXECUTIVE ACTION ON SB 50

Motion/Vote: REP. E. BERGSAGEL moved that SB 50 BE CONCURRED IN. Motion carried unanimously.
{Tape : 1; Side : A; Approx. Time Counter : 368 - 407; Comments : Rep. Zook agreed to carry SB 50.}

EXECUTIVE ACTION ON HB 185

Motion: REP. E. BERGSAGEL moved that HB 185 DO PASS.

Motion/Vote: REP. MENAHAN moved that HB 185 BE AMENDED per Exhibit 3. Motion carried unanimously. EXHIBIT(3)
{Tape : 1; Side : A; Approx. Time Counter : 407 - 444; Comments : There was brief discussion prior to the vote.}

Motion: REP. MENAHAN moved that HB 185 BE AMENDED per Exhibit 4. EXHIBIT(4)
{Tape : 1; Side : A; Approx. Time Counter : 444 - Side B: Approx. Time Counter: 000}

Discussion:
{Tape : 1; Side : B; Approx. Time Counter : 0 - 155; Comments : At counter 118, Rep.E.Bergsagel withdrew the Do Pass Motion and action on HB 185 was postponed.}

EXECUTIVE ACTION ON HB 69

Motion: REP. MCCANN moved that HB 69 DO PASS.

Discussion:
{Tape : 1; Side : B; Approx. Time Counter : 155 - 198}

Motion/Vote: REP. MCCANN moved that HB 69 BE AMENDED per Exhibit 5. Following brief discussion the Motion carried unanimously.
{Tape : 1; Side : B; Approx. Time Counter : 198 - 234} EXHIBIT(5)

Discussion:
{Tape : 1; Side : B; Approx. Time Counter : 234 - Tape: 2; Side: A; Approx. Time Counter 059; Comments : A conceptual amendment re lottery proceeds was discussed and it was determined a ruling by Greg Petesch was needed to determine whether an appropriation was needed per the proposed amendment. Taryn Purdy reported to the committee that Mr. Petesch affirmed that the lottery needed an appropriation for prizes and other costs.}

Motion/Vote: REP. MCCANN moved that HB 69 BE AMENDED per Exhibit 6. Motion carried 14-3 with Barnhart, E. Bergsagel, and Peck voting no. (Rep. Witt had left the room.) EXHIBIT(6)
{Tape : 2; Side : A; Approx. Time Counter : 59 - 71}

Motion/Vote: Following a brief discussion, REP. MCCANN moved that HB 69 BE AMENDED per Exhibit 7. Motion carried unanimously.
{Tape : 2; Side : A; Approx. Time Counter : 71 - 145} EXHIBIT(7)

Motion/Vote: REP. MCCANN moved that HB 69 BE AMENDED per Exhibit 8. Motion carried unanimously. EXHIBIT(8)
{Tape : 2; Side : A; Approx. Time Counter : 145 - 154}

Motion/Vote: REP. MCCANN moved that HB 69 DO PASS AS AMENDED. Motion carried 16-1 with E. Bergsagel voting no.
{Tape : 2; Side : A; Approx. Time Counter : 154 - 158; Comments : The amendments needed revision and the bill was re-referred, the committee report is not included.}

EXECUTIVE ACTION ON HB 75

Motion: REP. E. BERGSAGEL moved that HB 75 DO PASS.

Discussion: Rep. Witt returned to the committee room.
{Tape : 2; Side : A; Approx. Time Counter : 158 - 252}

Vote: Motion carried 12-6 with E. Bergsagel, P. Bergsagel, Haines, Kasten, Taylor, and Vick voting no.
{Tape : 2; Side : A; Approx. Time Counter : 254 - 256}

An exhibit relating to HB 185 was given to the committee secretary the day following the meeting. EXHIBIT(9)

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Time Counter : 213 - 242}

Closing by Sponsor:
{Tape : 1; Side : A; Approx. Time Counter : 242 - 253; Comments : Rep. Vick will carry SB 55.}

EXECUTIVE ACTION ON HB 69

Taryn Purdy explained the reason HB 69 was re-referred to the committee.
{Tape : 1; Side : A; Approx. Time Counter : 253 - 271}

Motion: **REP. E.BERGSAGEL** moved that **HB 69 DO PASS.**

Motion/Vote: **REP. E. BERGSAGEL** moved that **HB 69 BE AMENDED. Motion carried unanimously.** EXHIBIT(3)

Motion/Vote: **REP. E. BERGSAGEL** moved that **HB 69 DO PASS AS AMENDED. Motion carried unanimously.**

ADJOURNMENT

Adjournment: 3:20 P.M.

REP. TOM ZOOK, Chairman

JOANNE GUNDERSON, Secretary

TZ/JG

HB 34 SPONSOR: Stovall, Jay SHORT TITLE: Fund non-beneficiary students at tribal colleges
BY REQUEST OF: Committee On Indian Affairs
REFERRED ON: 03/05/1999 HEARD ON: 03/12/1999
TABLED ON: 03/29/1999
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee

HB 64 SPONSOR: McCann, Matt SHORT TITLE: Require agency budgets to contain prioritized plan to reduce base budget by 15%
REFERRED ON: 01/27/1999 HEARD ON: 03/02/1999
EXECUTIVE ACTION: 03/09/1999 Bill Concurred as Amended -- VOTE: 11 - 7
FINAL DISPOSITION 04/20/1999 Chapter Number Assigned

HB 69 SPONSOR: McCann, Matt SHORT TITLE: Revise the laws governing statutory appropriations and dedicated revenue
BY REQUEST OF: Legislative Finance Committee
REFERRED ON: 01/30/1999 HEARD ON: 03/02/1999
EXECUTIVE ACTION: 03/11/1999 Bill Concurred as Amended -- VOTE: 17 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 72 SPONSOR: Mercer, John SHORT TITLE: Guaranteed annual benefit adjustment for teachers' retirement system
BY REQUEST OF: Teachers' Retirement Board
REFERRED ON: 03/26/1999 HEARD ON: 04/09/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION 04/22/1999 Chapter Number Assigned

HB 75 SPONSOR: Ahner, Chris SHORT TITLE: Combine disaster and fire emergency statutory appropriations
BY REQUEST OF: Department Of Military Affairs
REFERRED ON: 01/27/1999 HEARD ON: 03/03/1999
EXECUTIVE ACTION: 03/03/1999 Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION 03/16/1999 Chapter Number Assigned

HB 79 SPONSOR: Brainard, Matt SHORT TITLE: Establish a defined contribution plan within public employees' retirement system
BY REQUEST OF: Committee On Public Employee Retirement Systems
REFERRED ON: 03/24/1999 HEARD ON: 04/08/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred as Amended -- VOTE: 14 - 4
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 2, 1999 at 8:00 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. Ken Mesaros (R)

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Pam Joehler, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 64, HB 69, HB 110, HB 207
Executive Action:

thought because of the 90 day time frame there was no way to do that, however he felt this bill would make it easier for a base budget review. **SEN. KEATING** asked if the zero base budget would cause a review of each department, **REP. MCCANN** thought it would.

SEN. TAYLOR thought this could be a step in the right direction. **SEN. TAYLOR** expressed concern over the loss of experience and past knowledge by term limits, and added he thought it was difficult for new Legislatures to understand the budgets and new programs. **SEN. TAYLOR** commented he was interested to see what will happen to the agencies when budget cuts need to be made and Legislatures do not have the proper knowledge of the base to make the changes.

SEN. SHEA asked if this passed would the base budgets be reduced every year by 15%, **CHAIRMAN SWYSGOOD** advised they would not reduce the budget, there would be a review every biennium of the 15% classified as low priority. **REP. MCCANN** advised this could be used as a tool to reduce, but would require the agencies to submit a caption on their department for Legislative review. ***{Tape : 1; Side : A; Approx. Time Counter : 816}***

SEN. JERGESON advised the language of the bill stated the agencies were to provide a plan for an 85% reduction, **REP. MCCANN** advised the wording may need to be cleaned up, **Pam Joehler,** Fiscal Services, advised the current base budget was classified as the even year of the biennium just ending, and she interpreted the wording to require 85% of the fiscal 98 expenditures for the 2001 biennium, for example.

Closing by Sponsor:

REP. MCCANN closed and advised the committee he was open to any amendments to make the bill better.

HEARING ON HB 69

Sponsor: **REP. MATT MCCANN, HD 92, HARLEM**

Proponents: None

Opponents: None

Opening Statement by Sponsor:
{Tape : 1; Side : A; Approx. Time Counter : 8:18}

REP. MCCANN advised this bill was a result of the interim committee action to review State Special Revenue Accounts and Statutory Appropriation Accounts this is a common sense bill to clear up statute and recognize the need and use of the dedicated revenue accounts. **REP. MCCANN** noted the technical notes in the fiscal note had been corrected by the House.

Questions from Committee Members and Responses:

SEN. LYNCH requested a new Fiscal note reflecting the changes and did not feel comfortable passing the bill without one.

Closing by Sponsor:

REP. MCCANN acknowledged several people had worked hard on this bill in an attempt to do the right thing. **REP. MCCANN** advised the Lottery Division presented arguments during the interim that were addressed, and requested any changes the committee thought should be made be brought forward.

CHAIRMAN SWYSGOOD explained to the committee in the 1993 session SB 378 directed the Legislative Finance Committee in the interim to review statutory appropriations and earmarked accounts in an attempt to reduce the number of accounts. **CHAIRMAN SWYSGOOD** advised since that time appropriated funds have been decreased from 70% of the budget to under 50% and noted the committee has done a excellent job and thanked them.

HEARING ON HB 110

Sponsor: **REP. ROYAL JOHNSON, HD 10, BILLINGS**

Proponents: **Anna Miller**, Department of Natural Resources and Conservation (**DNRC**)
Tom Livers, Department of Environmental Quality (**DEQ**)
Lucy Gallus, Montana Rural Water Systems

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 8:24}
REP. JOHNSON advised this bill increases the money allotted to the **DNRC** for water pollution control. The increase is from $15,000,000.00 to $30,000,000.00, allowing for $90,000,000.00 to be generated through project bonds. **REP. JOHNSON** advised the

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 11, 1999 at 8:02 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. Eve Franklin (D)

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Clayton Schenck, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 404 HB 495, 3/12/1999
Executive Action: HB 404, HB 495, HB 6, HB 8, HB 69, SB 491, SB 443, SB 449

Motion/Vote: **SEN. WATERMAN** moved that **SB 449 BE TABLED. Motion carried 11-6 with Mohl, Miller, Shea, Taylor, Keenan, and Keating voting no.**

EXECUTIVE ACTION ON HB 8

Motion: **SEN. BECK** moved that **HB 8 BE CONCURRED IN.**

Discussion:

CHAIRMAN SWYSGOOD explained **SB 48** expanded the funding of renewable resource projects to line 40.

SEN. TOEWS wanted **CHAIRMAN SWYSGOOD** to explain **SB 48, CHAIRMAN SWYSGOOD** advised prior to **SB 48** only 23 projects would have been funded, but with the increased allocation now 40 projects would be funded.

SEN. KEATING advised **SB 48** increased the interest income from the **RIT** from $2,000,000.00 to $4,000,000.00.

SEN. WATERMAN questioned Missoula and Bozeman asking to be added to the list. **CHAIRMAN SWYSGOOD** advised each city wanted $4,000,000.00 and never appeared before the **Long Range Planning Committee** nor made a presentation to this Committee, he noted he would not be receptive to adding them as it would throw out all the prioritization done by Long Range Planning.

Vote: Motion **carried unanimously.**

SEN. BECK was assigned to carry it on the floor.

EXECUTIVE ACTION ON SB 491

Motion/Vote: **SEN. BECK** moved that **SB 491 BE TABLED. Motion carried 13-4 with Jergeson, Lynch, Miller, and Shea voting no.** ***{Tape : 1; Side : B; Approx. Time Counter : 9:20}***

EXECUTIVE ACTION ON SB 443

Motion/Vote: **SEN. MAHLUM** moved that **SB 443 BE TABLED. Motion carried 16-1 with Jergeson voting no.**

{Tape : 2; Side : A; Approx. Time Counter : 000}

EXECUTIVE ACTION ON HB 69

Motion: **SEN. CHRISTIAENS** moved that **HB 69 BE AMENDED.**

Discussion:

Roger Lloyd, Legislative Fiscal Division, explained amendment **HB 006902.agp EXHIBIT(4)**. This amendment was at the request of the Natural Resources Subcommittee, and advised the funding for the Alternative Energy Account resources are depleted and are being pulled from the General Fund. The account would be eliminated so revenue sources would be directed to the General Fund and approximately $400,000.00 left in the fund would be deposited into the General Fund.

SEN. KEATING thought they were left with $90,000.00 for something and a $300,000 deposit into the General Fund. **Mr. Lloyd** advised this account was used to match Federal funds for a loan and grant program, however there have been no loans made for a number of years. **Mr. Lloyd** advised the money **SEN. KEATING** referred to was dollars in outstanding loans and would be referred to the General Fund.

SEN. KEATING noted **DEQ** lost funds in the House Appropriations for their data base of $125,000.00. Prior to the House Appropriations cutting the funds **DEQ** offered to give up the $300,000.00 and revert it into the General Fund with the agreement their data base would be approved. **SEN. KEATING** noted he is going to try and get the **DEQ**'s money back for the data base.

CHAIRMAN SWYSGOOD wanted to know if the amendment left the authority to form another account. **Mr. Lloyd** advised only the account was eliminated. **SEN. KEATING** advised the reason that was done is because $90,000.00 is still outstanding loan and being collected.

SEN. MOHL wanted to know how this affected the fiscal note. **Mr. Lloyd** advised there would be an increase to the General Fund by $400,000.00.

SEN. WATERMAN noted there was an ongoing loss that would be made up for a few years but after that would continue to be a loss.

Vote: Motion **carried unanimously.**

Motion/Vote: **SEN. KEATING** moved that **HB 69 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

SEN. JERGESON was appointed to carry the bill.